



August 11, 2011

Congressman Charles Boustany
Chairman, Subcommittee on Oversight
Committee on Ways and Means

RE: July 28, 2011 hearing on IRS paid tax return preparer program

Dear Chairman Boustany:

On behalf of the 22,000 members of The Ohio Society of CPAs (OSCPA), we appreciate the opportunity to comment on the new IRS paid tax return preparer program. Since the Service's Return Preparer Review process was first introduced in June 2009, OSCPAs has provided feedback to the IRS and Ohio's Congressional delegation on various components of the program, including the annual PTIN registration and associated fees, enforcement structure and the need for tax simplicity.

Across its membership, OSCPAs members advise individuals, partnerships, corporations and other taxpayers on federal, state, local, and international tax matters and supports adherence to high professional standards for all tax practitioners, particularly its members. We commend the IRS for seeking to better serve the public through increased compliance and ensuring uniform and high ethical standards of conduct for tax preparers, a goal we understand and share.

We also appreciate the IRS' adoption of an exemption for supervised preparers from testing and continuing education, many of whom are CPA-exam qualified students preparing for the CPA exam. That said, given the goal is to provide better service to taxpayers we continue to have concerns about what we believe is a minimal public benefit derived from the program thus far, specifically in terms of what we believe is the inverse cost/benefit ratio given. In 2011 approximately 717,000 registered paid preparers are currently registered. The GAO estimates that the mandatory PTIN registration will generate \$51-77 million in fees alone. During tax year 2011, 19 preparers were found to have a pattern of completing and signing incorrect or fraudulent tax returns for paying clients. Those results simply do not justify the revenue raised under the current structure. The amount generated from the registration in just the first year should provide more than adequate funds to develop the system. The need for ongoing, annual revenue is not justified as the IRS already had funding to monitor and discipline preparers. The educational component should pay for itself through tuition fees.

PTIN Mandate:

We hope the now mandatory use of the PTIN as a preparer identifier will minimize confidentiality concerns related to what could have been an alternative: the use of preparer social security numbers. That said, it is our view that a mechanism is in place to efficiently and effectively cull preparer data from, for lack of a better term, the PTIN database (even though the IRS was previously unable to do so based on preparers social security numbers, CAF numbers or PTIN numbers) Given the high concentration of errors in the Earned Income Tax Credit and other refundable tax credits, a more incremental, targeted and cost efficient approach aimed at taxpayers and the tax preparers who service these problem areas may have resulted in better overall compliance, at least in the short term.

Fee:

Our concern with the annual fee is two-fold: first, fees associated with the registered tax return preparer program should only be used to support and modernize the IRS' tax preparer tracking system and provide for a measurable compliance mechanism. Second, the amount of the fee should not be at a price point that discourages compliance as it could result in a "black market" industry of tax preparers unwilling to be subject to regulation or education requirements. More importantly, we question whether the significant additional costs and bureaucracy associated with this proposal will yield any significant benefit as ethical behavior cannot be legislated. Those individuals, including ex IRS employees that chose to prepare returns exaggerating deductions, omit income or claim credits they are not eligible for will continue to do so regardless of a PTIN registration requirement.

Education and Testing requirement:

Education requirements should not cater to and thus only protect the lowest common denominator of taxpayer. Registered tax return preparers who are subject to minimal testing, such as a 1040 tax return, should be permitted to prepare only those returns they were tested on. If the goal is to measure and ensure competency errors, testing must mirror the material on the returns. Not doing so is akin to testing a driver only on how to turn a car on and then providing him/her with a driver's license. Further, technical competency does not guarantee ethical behavior. It is not clear nor has there been empirical evidence presented that returns prepared by someone other than the taxpayers themselves contain a disproportionate number of technical errors. The mere fact that the same data provided on a test basis to several preparers created numerous different answers only points to the ambiguity and complexity of the tax code.

As the Service considers developing additional competency examinations, it is our hope that serious consideration is given to subjecting non legacy Circular 230 preparers to the Enrolled Agent exam. Additionally, IRS employees should be subject to the same competency testing.

Enforcement: OSCP respectfully disagrees with the IRS' presumption that the tax preparer regulations, and specifically the mandatory use of the PTIN, will "increase tax compliance and allow taxpayers to be confident that the tax return preparer to whom they turn for assistance are knowledgeable, skilled and ethical." This statement creates an unrealistic expectation among taxpayers that the mandatory use of PTIN not only signals competency of tax preparers but that it will stop them from committing fraud. Educating taxpayers about what to look for when selecting a tax preparer is a better alternative.

Under the current structure it is critical for the Service to develop and communicate a framework outlining how the tax preparer regulations will improve taxpayer compliance, specifically as it relates to the problem areas of incorrectly claiming the Earned Income Tax Credit and other incorrect refund reporting. We recommend using the enforcement mechanisms currently in place, including disciplinary and criminal action.

New designation:

Anyone eighteen years or older who registers for a PTIN, passes the return preparer competency examination and tax compliance and suitability checks will be designated Registered Tax Return Preparers. Confusion in the marketplace is a serious concern for our members. We appreciate the Service's mandate for a disclosure statement when a paid preparer is using the new "designation." The taxpaying public also should continue to be made aware of the higher standards required for licensure for legacy Circular 230 preparers. To avoid confusion among the public, we also recommend that the abbreviated "RTRP" not be permitted to be used under any circumstances as it does not adequately differentiate between the more commonly used CPA, JD, or EA.

Tax simplicity:

It is our final recommendation that serious consideration be given to tax simplicity. If the complexity of the tax code, particularly of the EITC, is causing a high rate of errors among preparers then one must look at how to ease the compliance burden that exists for all taxpayers. Simplifying the tax code is an important step towards improving voluntary compliance and accuracy.

Again, thank you for allowing us to comment on the new paid tax return preparer program. Should you have any questions or need clarification on any of the comments above, please contact Amy Mignogna, The Ohio Society of CPAs' director of tax policy, at 800.686.2727.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. Clarke Price".

J. Clarke Price, CAE
President & CEO

A handwritten signature in black ink, appearing to read "J. Matthew Yuskewich".

J. Matthew Yuskewich, CPA
Past Chair of the board

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